

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6421

BILL NUMBER: HB 1042

NOTE PREPARED: Feb 26, 2008

BILL AMENDED: Feb 21, 2008

SUBJECT: Intent to Sell Sexually Explicit Products.

FIRST AUTHOR: Rep. Goodin

FIRST SPONSOR: Sen. Steele

BILL STATUS: 2nd Reading - 2nd House

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) The bill requires a person that intends to offer for sale or sell sexually explicit materials to register and file a statement with the Secretary of State.

Filing Fee: It imposes a \$250 filing fee and requires the Secretary of State to notify certain local officials of the county in which the person locates the business.

Class B Misdemeanor: It also provides that a person that offers for sale or sells sexually explicit materials without registering and filing the statement commits a Class B misdemeanor.

Effective Date: July 1, 2008.

Explanation of State Expenditures: (Revised) *Secretary of State:* The bill could minimally increase costs for the Secretary of State to receive the registration and communicate with the appropriate county executive, municipal executive, or local entity that supervises zoning boards in the county concerning the receipt of the registration. These costs may be offset by a \$250 filing fee established under the bill.

Explanation of State Revenues: (Revised) *Filing Fee:* The bill establishes a \$250 filing fee for persons (including human beings, corporations, limited liability companies, partnerships, unincorporated associations, or governmental entities) who intend to sell sexually explicit materials. The number of potential businesses is unknown, and the registration requirement would not apply to a person who sells sexually explicit materials on June 30, 2008, unless the person changes business locations. The fees collected are to be deposited in the state General Fund.

(Revised) *Class B Misdemeanor*: There are no data to indicate how many offenders may be convicted of knowingly or intentionally offering for sale or selling sexually explicit materials in violation of the requirement to register with the Secretary of State, a Class B misdemeanor. If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class B misdemeanor is \$1,000. Criminal fines are deposited in the Common School Fund.

If the case is filed in a circuit, superior, or county court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund. In addition, some or all of the document storage fee (\$2), automated record keeping fee (\$7), judicial salaries fee (\$17), public defense administration fee (\$3), court administration fee (\$3), judicial insurance adjustment fee (\$1), and the DNA sample processing fee (\$1) are deposited into the state General Fund.

Explanation of Local Expenditures: *Class B Misdemeanor*: A Class B misdemeanor is punishable by up to 180 days in jail. The average daily cost to incarcerate a prisoner in a county jail is approximately \$44.

Explanation of Local Revenues: *Class B Misdemeanor*: If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. In addition, several additional fees may be collected at the discretion of the judge and depending upon the particular type of criminal case.

State Agencies Affected: Secretary of State.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources:

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